



## UNITED STATES DEPARTMENT OF COMMERCE

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09/022,336 02/11/98 JONES

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EXAMINER

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MAPLES, J

ART UNIT

PAPER NUMBER

1745

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DATE MAILED:

12/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Best Available Copy

## Office Action Summary

Application No.	Applicant(s)
09/023,336	JONES ET AL
Examiner JOHN S. MARPLES	Group Art Unit 1745

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 9-30-99.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-35 is/are pending in the application.

Of the above claim(s) 1-6, 31 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 7-13, 15, 16, 22-24, 26-30, 32, 35 is/are rejected.

Claim(s) 14, 17-21, 25, 33, 34 is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of References Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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1. Applicant's arguments relating to the last restriction requirement have all been considered and are deemed persuasive. Accordingly, claims 7-30 and 32-35 are being prosecuted together and have been examined on their merits as outlined below.

Claims 1-6 and 31 are withdrawn from further prosecution without traverse being drawn to a non-elected invention. Applicant did not argue the carving out of this invention so that the election is treated without traverse.

2. Claims 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22, "ceramic vessel" finds no antecedent basis, while "vessel" of claim 24 does not have proper antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

KCGP 4. Claims 15, 16 and ~~23~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Catylators Limited (CL).

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Reference is made to page 1, lines 16-60 and page 3, lines 9-15 along with all of the drawing figures.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

WT u. 7/ 6. Claims 13, 15, 22, 24, 26-30, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kreidl et al. (Kreidl) in view of CL.  
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The only claimed features not shown by Kriedl are the particular vessel encompassing the catalyst, the size of the vessel and for the amount of catalyst present.

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CL sets forth as outlined above a catalyst vessel as claimed. To include in Kreidl the vessel of CL would have been obvious for its improved flame resistant properties.

The amount of catalyst present as well as the specific size of the vessel are deemed obvious matters of design choice to one of ordinary skill in this art of no patentable moment because the same would depend on the use intended. One would arrive at such particulars through routine experimentation not involving inventive concept.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference is made to DE 2904842, the English translation thereof, for a VRLA cell having an encapsulated catalyst secured below a pressure relief valve.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is (703) 308-1795. The examiner can normally be reached on Monday-Friday from 6:30 to 4:00. The examiner can also be reached on alternate Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached on (703) 305-3776. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JSM/December 18, 1999

*John S. Maples*  
JOHN S. MAPLES  
PRIMARY EXAMINER  
GROUP 1745